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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 EASTERN DIVISION
14

Michael D'Aleo and Lynne D'Aleo,
15 Plaintiffs,

16 v.

17 Robert A. Dworshak; Maribel Pina;
18 EAN Holdings, LLC; Enterprise Rent-
A-Car of Los Angeles, LLC, Does 1-
19 100, inclusive,

20 Defendants.

No. EDCV 19-00372

NOTICE OF REMOVAL OF CIVIL
ACTION

[28 U.S.C. § 2679(d)(2)]

21 Maribel Pina,

22 Cross-Plaintiff,

23 v.

24 Robert A. Dworshak; EAN Holdings,
25 LLC; Enterprise Rent-A-Car of Los
26 Angeles, LLC, Roes 1-100, inclusive,

27 Cross-Defendants.
28

1 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
2 CALIFORNIA AND TO ALL INTERESTED PARTIES, BY AND THROUGH THEIR
3 ATTORNEYS OF RECORD:

4 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1442(a)(1), defendant and
5 cross-defendant Robert A. Dworshak (“Defendant”), removes to this Honorable Court
6 the State Court action described below. The grounds for this removal are as follows:

7 1. On August 2, 2018, Michael D’Aleo and Lynne D’Aleo (“Plaintiffs”) filed
8 a civil action against Defendant; Maribel Pina; EAN Holdings, LLC; Enterprise Rent-A-
9 Car of Los Angeles, LLC in the Superior Court of the State of California for the County
10 of Riverside, entitled *Michael D’Aleo and Lynne D’Aleo v. Robert A. Dworshak;*
11 *Maribel Pina; EAN Holdings, LLC; Enterprise Rent-A-Car of Los Angeles, LLC*, case
12 no. MCC1800871.

13 2. The civil action described above was removed on October 3, 2018, and
14 assigned to the Honorable Jesus G. Bernal, case no. 5:18-cv-02110-JGB-SHK. The
15 complaint appeared to allege personal injury for a motor vehicle accident on August 3,
16 2016, at approximately 4:35 p.m. on 1-15 northbound in the City of Temecula, Riverside
17 County, California.

18 3. Pursuant to 28 U.S.C. § 2679(d)(2), Defendant was acting within the course
19 and scope of his employment with the United States of America at all times material to
20 the allegations contained in the Complaint. A duly executed Certification of the Chief of
21 the Civil Division for the Central District of California, attesting to the foregoing, was
22 attached to the notice of removal, and is again attached hereto as Exhibit 1.

23 4. This Court has exclusive jurisdiction over civil actions for money damages
24 for injury allegedly caused by the negligent or wrongful act or omission of an employee
25 of the United States which purportedly occurred in the course and scope of employment.
26 28 U.S.C. § 1346(b). Additionally, this Court has original jurisdiction over all civil
27 actions arising under the Constitution, laws or treaties of the United States. 28 U.S.C.
28 § 1331.

1 5. On November 8, 2018, Plaintiffs and Defendant stipulated to dismiss
2 without prejudice in order to allow Plaintiffs to exhaust their administrative remedies
3 under the Federal Tort Claims Act, 28 U.S.C. § 2675(a), which the Court approved on
4 November 13, 2018. *See* case no. 5:18-cv-02110-JGB-SHK, Dkt. Nos. 7 & 8.

5 6. On February 3, 2019, defendant Maribel Pina in the state court action
6 served Defendant with a cross-complaint. A copy of the cross-complaint and other
7 pleadings received by Defendant is attached hereto as Exhibit 2.

8 7. As stated above, because Defendant was acting within the course and scope
9 of employment at the time of the accident, removal of the entire action is appropriate
10 under 28 U.S.C. § 1346(b) and 28 U.S.C. § 1331. After this case has been assigned to a
11 district court judge, the United States will be substituted as the real party in interest.

12 8. Removal is timely under 28 U.S.C. § 2679(d)(2) in that the trial of case no.
13 MCC1800871 has not yet commenced.

14 9. Because this notice is being filed on behalf of the United States, no bond is
15 required under the terms of 28 U.S.C. §§ 2408, 2679(d)(2).

16 WHEREFORE, Defendant removes the action now pending in the Superior Court
17 of the State of California for the County of Riverside, Case No. MCC1800871, to the
18 United States District Court for the Central District of California.

19 Dated: February 26, 2019

Respectfully submitted,

20 NICOLA T. HANNA

United States Attorney

21 DAVID M. HARRIS

Assistant United States Attorney

22 Chief, Civil Division

23 JOANNE S. OSINOFF

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24 Chief, General Civil Section

25 /s/Chung H. Han

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26 Assistant United States Attorney

27 Attorneys for Defendant and Cross-Defendant

Robert A. Dworshak